

**Remarks**

Claims 1 - 12 remain pending. Claims 1, 4 and 12 have been amended herein.

Claims 13 - 19 have been canceled.

**1. Drawings:**

The proposed drawing correction filed on September 8, 2002 has been approved. Formal drawings will be submitted upon allowance.

**2. Claim Rejections 35 U.S.C. §103**

Claims 1-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rehbein in view of Clear and Clement.

It is submitted that Rehbein, Clear, and Clement combined fail to disclose, teach or suggest an apparatus according to the present invention. The combination of Rehbein, Clear and Clement, even if proper, would fail to yield the modular deck panel apparatus of the present claims having a recessed support structure providing a relatively small gap distance between adjacent pairs of panels.

Regarding claims 1, 4 and 12, the combination of Rehbein, Clear and Clement would fail to teach or suggest (1) a recessed support member having an installed height which is less than the thickness of the modular panel, and (2) a gap distance between adjacent pairs of modular panels being substantially less than the thickness dimension of the modular panels. Clement teaches support members 20, 24 having a height which is substantially greater (more than two times) than the thickness of the panels 28. *See*, Figure 3. Additionally, Clement teaches that the distance between adjacent panels 28 is substantially greater than the thickness of the panels. In Clement, the distance between adjacent panels 28 is determined by the thickness of rib portion 62. The overall visual effect of a structure according to Clement includes panel top surfaces and top surfaces of support elements 20, 24. In comparison, the overall visual effect of a structure according to the present invention includes primarily panel top surfaces, i.e., the underlying

support element of the present invention is recessed and substantially hidden from view when view from the top.

No combination of the prior art would suggest an interlocking recessed panel support structure having an installed height which is substantially less than the thickness of the panels, and wherein the gap distance between adjacent pairs of panels is substantially less than the thickness of the panels.

### 3. Request for Reconsideration and Allowance


Based upon the above Amendments and Remarks, claims 1-13 are believed to be in proper form for allowance, and patentable over the prior art made of record. Applicant respectfully requests reconsideration of those claims and a prompt Notice of Allowance thereon.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached pages are captioned "Version with markings to show changes made."

Please direct any questions or comments regarding this application to John F. Klos at (612) 321-2806.

Respectfully submitted, John Potter, by his attorneys,

Date: March 3, 2003

  
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Ser. No. 09/608,816

**VERSION WITH MARKINGS TO SHOW CHANGES MADE (03/03/03)**

**In the claims:**

Please amend the claims as follows:

1. (amended three times) A modular deck panel apparatus for a deck structure including a plurality of underlying joist elements, each one of said plurality of joist elements having a top longitudinal surface, said modular deck panel apparatus comprising:

a plurality of modular panels, each of the plurality of modular panels having a first substantially planar element being relatively inflexible, each of said plurality of modular elements having a thickness dimension; [and]

a second substantially planar element disposed beneath the first planar element and secured thereto, said second planar element being relatively flexible in relation to the first planar element; and

a plurality of elongated members, a first portion of the plurality of elongated members being secured at intervals along top longitudinal surfaces of a series of underlying joist elements, and a second portion of the plurality of elongated members spanning between successive joist elements and engaging the first portion of the plurality of elongated members to restrain the plurality of modular panels, said first portion of the plurality of elongated members extending upwardly away from the top longitudinal surfaces of the joist elements to a predetermined height, said height being substantially less than the thickness dimension of the modular panels, and a gap distance between adjacent pairs of modular panels being substantially less than the thickness dimension of the modular panels.

4. (amended three times) A modular deck panel apparatus for a deck structure including a plurality of horizontal joist elements, said modular deck panel apparatus comprising:

a plurality of modular panels, each having a first substantially planar element being relatively inflexible and of a material selected from among the group including: stone, mineral,

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tile, and concrete product, each of said plurality of modular elements having a thickness dimension; [and]

a second substantially planar element of a material different than the first planar element, said second planar element being disposed beneath the first planar element and coupled thereto, said second planar element having a predetermined total area, said second planar element supporting the deck panel upon the deck structure at a panel support area, said panel support area being substantially smaller than the predetermined total area; and

a plurality of elongated members, a first portion of the plurality of elongated members being secured along top longitudinal surfaces of a series of horizontal joist elements, and a second portion of the plurality of elongated members spanning between successive joist elements and engaging the first portion of the plurality of elongated members to restrain the plurality of modular panels, said first portion of the plurality of elongated members extending upwardly away from the top longitudinal surfaces of the joist elements to a predetermined height, said height being substantially less than the thickness dimension of the modular panels, and a gap distance between adjacent pairs of modular panels being substantially less than the thickness dimension of the modular panels.

12. (amended three times) A deck structure comprising:

a deck frame including a series of joists arranged at a generally uniform spacing; and

a plurality of modular panels secured to said deck frame by a plurality of elongated members, a first portion of said plurality of elongated members being secured to a series of joists along top longitudinal surfaces thereof, and a second portion of said plurality of elongated members extending across multiple joists and engaging the first portion to support the plurality of modular panels against lateral movement, each panel being of a composite layered construction including a top side and a bottom side, each panel including a first layer element defining the top side and of a material providing substantial compressive strength and limited tensile strength, each panel further including a second layer element defining the bottom side and coupled to the first layer element, said second layer element of a material providing substantial tensile strength, and said first portion of the plurality of elongated members extending upwardly

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away from the top longitudinal surfaces of the joist elements to a predetermined height, said height being substantially less than a thickness dimension of the modular panels, and a gap distance between adjacent pairs of modular panels being substantially less than the thickness dimension of the modular panels.

Cancel claims 13-19.